

Introduced by Senator Steinberg
(Coauthor: Senator DeSaulnier)
(Coauthor: Assembly Member Monning)

February 19, 2010

An act to amend Sections 1151.6, 1156, 1156.2, 1156.3, 1156.4, 1157, 1160.3, and 1160.6 of, and to add Section 1156.35 to, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1474, as introduced, Steinberg. Labor representatives: elections.

Existing law prohibits employers from engaging in unfair labor practices, including interfering in the election by agricultural employees of labor representatives to engage in collective bargaining for the designated bargaining units. Existing law also provides criminal and civil penalties for any employer or person who engages in unfair labor practices as determined by the Agricultural Labor Relations Board and the courts.

Existing law provides for a secret ballot election for employees in agricultural bargaining units, as defined, to select labor organizations to represent them for collective bargaining purposes.

This bill would permit agricultural employees, as an alternative procedure, to select their labor representatives by submitting a petition to the board accompanied by representation cards signed by a majority of the bargaining unit. The board would be required to conduct an immediate investigation to determine whether to certify the labor organization as the exclusive bargaining representative for the particular agricultural employees. Within 5 days after receiving a petition, the board would be required to make a nonappealable administrative decision. If the board determined that the representation cards meet

specified criteria, then the labor organization would be certified as the exclusive bargaining representative. If the board determined that the representation cards were deficient, it would notify the labor organization of the deficiency and grant the labor organization 30 days to submit additional cards.

This bill would extend the existing prohibitions and penalties to employers who engage in unfair labor practices with regard to a majority signup election.

This bill would require that the board keep the information on the representation cards confidential.

By expanding the definition of unfair labor practices for infractions, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1151.6 of the Labor Code is amended to
2 read:

3 1151.6. ~~Any~~A person who ~~shall willfully resist, prevent,~~
4 ~~impede resists, prevents, impedes, or interfere interferes~~ with any
5 member of the board or any of its agents or agencies in the
6 performance of duties pursuant to this part ~~shall be~~ is guilty of a
7 misdemeanor, and shall be punished by a fine of not more than
8 five thousand *dollars* (\$5,000) ~~dollars~~.

9 SEC. 2. Section 1156 of the Labor Code is amended to read:

10 1156. ~~Representatives~~—(a) A *representative* designated or
11 selected by a secret ballot *pursuant to Section 1156.3, or by a*
12 *majority signup election pursuant to Section 1156.35*, for the
13 purposes of collective bargaining by the majority of the agricultural
14 employees in ~~the~~ a bargaining unit shall be the exclusive
15 ~~representatives~~ *representative* of all the agricultural employees in
16 ~~such~~ *the* unit for the purpose of collective bargaining with respect
17 to rates of pay, wages, hours of employment, or other conditions
18 of employment. ~~Any~~

1 (b) An individual agricultural employee or a group of agricultural
2 employees ~~shall have~~ *has* the right at any time to present grievances
3 to their agricultural employer and to have ~~such those~~ grievances
4 adjusted, without the intervention of the bargaining representative,
5 as long as the adjustment is not inconsistent with the terms of a
6 ~~collective-bargaining~~ *collective bargaining* contract or agreement
7 then in effect, if the bargaining representative has been given
8 opportunity to be present at ~~such the~~ adjustment.

9 SEC. 3. Section 1156.2 of the Labor Code is amended to read:

10 1156.2. ~~The~~ A bargaining unit ~~shall be~~ *is* all the agricultural
11 employees of an employer. If the agricultural employees of ~~the~~ *an*
12 employer are employed in two or more noncontiguous geographical
13 areas, the board shall determine the appropriate unit or units of
14 agricultural employees in which a secret ballot election *or a*
15 *majority signup election* shall be conducted.

16 SEC. 4. Section 1156.3 of the Labor Code is amended to read:

17 1156.3. (a) A petition that is either signed by, or accompanied
18 by authorization cards signed by, a majority of the currently
19 employed employees in the bargaining unit, may be filed by an
20 agricultural employee or group of agricultural employees, or any
21 individual or labor organization acting on behalf of those
22 agricultural employees, in accordance with any rules and
23 regulations prescribed by the board. The petition shall allege all
24 of the following:

25 (1) That the number of agricultural employees currently
26 employed by the employer named in the petition, as determined
27 from the employer's payroll immediately preceding the filing of
28 the petition, is not less than 50 percent of the employer's peak
29 agricultural employment for the current calendar year.

30 (2) That no valid election pursuant to this section has been
31 conducted among the agricultural employees of the employer
32 named in the petition within the 12 months immediately preceding
33 the filing of the petition.

34 (3) That no labor organization is currently certified as the
35 ~~exclusive collective-bargaining~~ *collective bargaining* representative
36 of the agricultural employees of the employer named in the petition.

37 (4) That the petition is not barred by an existing
38 ~~collective-bargaining~~ *collective bargaining* agreement.

39 (b) Upon receipt of a signed petition, as described in subdivision

40 (a), the board shall immediately investigate the petition. If the

1 board has reasonable cause to believe that a bona fide question of
2 representation exists, it shall direct a representation election by
3 secret ballot to be held, upon due notice to all interested parties
4 and within a maximum of seven days of the filing of the petition.
5 If, at the time the election petition is filed, a majority of the
6 employees in a bargaining unit are engaged in a strike, the board
7 shall, with all due diligence, attempt to hold a secret ballot election
8 within 48 hours of the filing of the petition. The holding of
9 elections under strike circumstances shall take precedence over
10 the holding of other secret ballot elections.

11 (c) The board shall make available, at any election *or alternative*
12 *selection process* held under this chapter, *either* ballots *or*
13 *representation cards, as appropriate, and all materials used to*
14 *select labor representatives* printed in English and Spanish. The
15 board may also make available at the election *or selection process*
16 *ballots or representation cards, as appropriate, and all other*
17 *election materials used to select labor representatives* printed in
18 any other language as may be requested by an agricultural labor
19 organization or any agricultural employee eligible to vote under
20 this part. Every election ballot, except ballots in runoff elections
21 where the choice is between labor organizations, shall provide the
22 employee with the opportunity to vote against representation by
23 a labor organization by providing an appropriate space designated
24 “No Labor Organizations.”

25 (d) Any other labor organization shall be qualified to appear on
26 the ballot if it presents authorization cards signed by at least 20
27 percent of the employees in the bargaining unit at least 24 hours
28 prior to the election.

29 (e) (1) Within five days after an election, any person may file
30 with the board a signed petition asserting that allegations made in
31 the petition filed pursuant to subdivision (a) were incorrect,
32 asserting that the board improperly determined the geographical
33 scope of the bargaining unit, or objecting to the conduct of the
34 election or conduct affecting the results of the election.

35 (2) Upon receipt of a petition under this subdivision, the board,
36 upon due notice, shall conduct a hearing to determine whether the
37 election shall be certified. This hearing may be conducted by an
38 officer or employee of a regional office of the board. The officer
39 may not make any recommendations with respect to the
40 certification of the election. The board may refuse to certify the

1 election if it finds, on the record of the hearing, that any of the
2 assertions made in the petition filed pursuant to this subdivision
3 are correct, that the election was not conducted properly, or that
4 misconduct affecting the results of the election occurred. The board
5 shall certify the election unless it determines that there are
6 sufficient grounds to refuse to do so.

7 (f) If no petition is filed pursuant to subdivision (e) within five
8 days of the election, the board shall certify the election.

9 (g) The board shall decertify a labor organization if either of
10 the following occur:

11 (1) The Department of Fair Employment and Housing finds that
12 the labor organization engaged in discrimination on any basis listed
13 in subdivision (a) of Section 12940 of the Government Code, as
14 those bases are defined in Sections 12926 and 12926.1 of the
15 Government Code, except as otherwise provided in Section 12940
16 of the Government Code.

17 (2) The United States Equal Employment Opportunity
18 Commission finds, pursuant to Section 2000e-5 of Title 42 of the
19 United States Code, that the labor organization engaged in
20 discrimination on the basis of race, color, national origin, religion,
21 sex, or any other arbitrary or invidious classification in violation
22 of Subchapter VI of Chapter 21 of Title 42 of the United States
23 Code during the period of the labor organization's present
24 certification.

25 SEC. 5. Section 1156.35 is added to the Labor Code, to read:

26 1156.35. (a) As an alternative procedure to the secret ballot
27 election process set forth in Section 1156.3, a labor organization
28 may be certified as the exclusive bargaining representative of a
29 bargaining unit through a majority signup election. A majority
30 signup election permits a bargaining unit to summarily select a
31 labor organization as its representative for collective bargaining
32 purposes without holding a representation election.

33 (b) A labor organization that wishes to represent a particular
34 bargaining unit, as defined in Section 1156.2, may be certified
35 through a majority signup election as that unit's bargaining
36 representative by submitting to the board a petition for majority
37 signup election. The petition must allege the following:

38 (1) That the number of agricultural employees currently
39 employed by the employer named in the petition for majority
40 signup election, as determined from the employer's payroll

1 immediately preceding the filing of the petition for majority signup
2 election, is not less than 50 percent of the employer's peak
3 agricultural employment for the current calendar year.

4 (2) That no valid election has been conducted among the
5 agricultural employees of the employer named in the petition for
6 majority signup election within the 12 months preceding the filing
7 of the petition.

8 (3) That no labor organization is currently certified as the
9 exclusive collective bargaining representative of the agricultural
10 employees of the employer named in the petition for majority
11 signup election.

12 (4) That the petition is not barred by an existing collective
13 bargaining agreement.

14 (c) (1) The petition for majority signup election in subdivision
15 (b) must be accompanied by representation cards signed by more
16 than 50 percent of the currently employed employees. For purposes
17 of this section, "currently employed employees" means those
18 agricultural employees of the employer who were employed at
19 any time during the employer's last payroll period that ended prior
20 to the filing of the petition for majority signup election.

21 (2) The representation cards must be titled "ALRB
22 Representation Cards for Certification of a Labor Organization."

23 (3) Each representation card must include the following:

24 (A) A statement that the employee signing it wishes to have a
25 specified labor organization as his or her collective bargaining
26 representative with respect to rates of pay, wages, hours of
27 employment, and other conditions of employment.

28 (B) A statement that no promises or threats were made to obtain
29 the employee's signature on the card.

30 (C) An acknowledgment that by signing the card the employee
31 is manifesting a desire to be represented by a labor organization.

32 (D) An acknowledgment that the employee is aware of the
33 toll-free telephone number of the Agriculture Labor Relations
34 Board, which is available to complain about coercion or other
35 unfair labor practices.

36 (E) Sufficient space for the following information: the name of
37 labor organization; the name of the agricultural employer; the
38 employee's name, address, and telephone number; the name of
39 the employee's foreman; the signature of the employee; the name,
40 address, telephone number, and the signature of the person

1 witnessing that the employee signed the card; and the date when
2 the card was signed.

3 (4) The board shall maintain the confidentiality and secrecy of
4 the employee name on the representation card. The board shall
5 give the representation card the same confidentiality and secrecy
6 as a regular election ballot.

7 (5) Upon the request of a labor organization, the board shall
8 issue standardized representation cards for use with a petition for
9 majority signup election, in accordance with subdivision (c) of
10 Section 1156.3.

11 (6) A representation card is valid, for the purpose of supporting
12 a petition for majority signup election, if it contains the name of
13 the labor organization, the name of the employee, and the
14 employee's signature. A labor organization may fill out all of the
15 information contained in a representation card, except for the
16 employee's signature.

17 (7) A representation card remains valid for 12 months after it
18 is signed by an agricultural employee.

19 (d) A labor organization submitting a petition for a majority
20 signup election shall personally serve the petition on the employer
21 on the same day that the petition is filed with the board. Within
22 48 hours after the petition is served, the employer shall file with
23 the board its response to the petition. As part of the response, the
24 employer shall provide a complete and accurate list of the full
25 names, current street addresses, and job classifications of all
26 currently employed employees in the bargaining unit. The employer
27 shall organize the employees' names and addresses and other
28 information by crew or department and shall provide the list to the
29 board in hard copy and electronic format. Immediately upon
30 receiving the list, the board shall provide a hard copy and an
31 electronic copy to the labor organization that filed the majority
32 signup election petition.

33 (e) (1) Upon receipt of a petition for majority signup election,
34 the board shall immediately commence an investigation regarding
35 the validity of the petition and the accompanying representation
36 cards. Within five days of receipt of the petition, the board shall
37 make an administrative determination as to whether the
38 requirements set forth in subdivision (b) are met by the petition
39 and whether the labor organization submitting the petition has
40 submitted the number of representation cards required by paragraph

(1) of subdivision (c). In making this determination, the board shall compare the names on the representation cards submitted by the labor organization to the names on the list of currently employed employees provided by the employer. The board shall ignore discrepancies between the employee's name listed on the representation card and the employee's name on the employer's list if the preponderance of the evidence, such as the employee's address and the name of the employee's foreman, shows that the employee who signed the card is the same person as the employee on the employer's list.

(2) The board shall return those representation cards that it finds invalid to the labor organization that filed the petition for majority signup election, with an explanation as to why each representation card was found to be invalid. To protect the confidentiality of the names on the representation cards, the board's determination of whether a particular card is valid shall be final and not subject to appeal or review.

(3) If the board determines that the labor organization has submitted the required number of representation cards and met the requirements set forth in this section and in Section 1156.4, it shall immediately certify the labor organization as the exclusive bargaining representative of the employees in the bargaining unit. An employer's duty to bargain with the labor organization commences immediately after the labor organization is certified.

(4) If the board determines that the labor organization has not submitted the requisite number of valid representation cards, or that the representation cards fail to meet the requirements set forth in this section or in Section 1156.4, the board shall notify the labor organization of the deficiency and grant the labor organization 30 days from the date it is notified to submit additional representation cards.

(f) (1) Within five days after the board certifies a labor organization through a majority signup election, any person may file with the board a petition objecting to the certification on one or more of the following grounds:

(A) Allegations in the majority signup petition were false.

(B) The board improperly determined the geographical scope of the bargaining unit.

(C) The majority signup election was conducted improperly.

1 (D) Improper conduct affected the results of the majority sign-up
2 election.

3 (2) Upon receipt of a petition objecting to certification, the board
4 shall conduct a hearing to rule on the petitioner's objections, and
5 shall mail a notice of the time and place of the hearing to the
6 petitioner and the labor organization whose certification is being
7 challenged. If the board finds at the hearing that any of the
8 allegations in the petition of the grounds set forth in paragraph (1)
9 are true, the board shall revoke the certification issued under
10 subdivision (e).

11 (3) The filing of a petition objecting to a majority sign-up election
12 certification shall not diminish the duty to bargain or delay the
13 running of the 180-day period set forth in subdivision (a) of Section
14 1164.

15 (4) If the board finds, after a hearing, that an employer has
16 assisted, supported, created, or dominated a labor organization for
17 the purpose of filing a majority sign-up election petition, the board
18 shall order the employer to pay for all the costs and expenses
19 incurred by a labor organization challenging a majority sign-up
20 election.

21 (g) The board shall not permit the filing of an election petition
22 pursuant to Section 1156.3 once a majority sign-up petition is filed
23 until the board determines whether the labor organization filing
24 the majority sign-up election petition should be certified.

25 (h) Once a labor organization has filed a majority sign-up election
26 petition, no other majority sign-up election petition shall be
27 considered by the board with the same agricultural employer until
28 the board determines whether the labor organization that filed the
29 pending majority sign-up election petition should be certified.

30 (i) For purposes of Section 1156.5, a majority sign-up election
31 is a valid election.

32 SEC. 6. Section 1156.4 of the Labor Code is amended to read:

33 1156.4. Recognizing that agriculture is a seasonal occupation
34 for a majority of agricultural employees, and wishing to provide
35 the fullest scope for employees' enjoyment of the rights included
36 in this part, the board shall not consider a representation petition,
37 *petition for majority sign-up election*, or a petition to decertify as
38 timely filed unless the employer's payroll reflects 50 percent of
39 the peak agricultural employment for such employer for the current

1 calendar year for the payroll period immediately preceding the
2 filing of the petition.

3 In this connection, the peak agricultural employment for the
4 prior season shall alone not be a basis for ~~such~~ *this* determination,
5 but rather the board shall estimate peak employment on the basis
6 of acreage and crop statistics, which shall be applied uniformly
7 throughout the State of California, and upon all other relevant data.

8 SEC. 7. Section 1157 of the Labor Code is amended to read:

9 1157. All agricultural employees of the employer whose names
10 appear on the payroll applicable to the payroll period immediately
11 preceding the filing of the petition ~~of such an~~ *for a representation*
12 *election or a majority signup* election shall be eligible to vote. An
13 economic striker shall be eligible to vote under such regulations
14 as the board ~~shall find~~ *finds* are consistent with the purposes and
15 provisions of this part in any election, provided that the striker
16 who has been permanently replaced shall not be eligible to vote
17 in any election conducted more than 12 months after the
18 commencement of the strike.

19 In the case of elections conducted within 18 months of the
20 effective date of this part which involve labor disputes ~~which that~~
21 commenced prior to ~~such~~ *the* effective date, the board shall have
22 the jurisdiction to adopt fair, equitable, and appropriate eligibility
23 rules, which shall effectuate the policies of this part, with respect
24 to the eligibility of economic strikers who were paid for work
25 performed or for paid vacation during the payroll period
26 immediately preceding the expiration of a ~~collective bargaining~~
27 *collective bargaining* agreement or the commencement of a strike,,
28 provided, ~~however,~~ that in no event shall the board afford eligibility
29 to any ~~such~~ striker who has not performed any services for the
30 employer during the 36-month period immediately preceding the
31 effective date of this part.

32 SEC. 8. Section 1160.3 of the Labor Code is amended to read:

33 1160.3. (a) The testimony taken by ~~such~~ *a* member, agent, or
34 agency, or the board in ~~such~~ *a* hearing shall be reduced to writing
35 and filed with the board. Thereafter, in its discretion, the board,
36 upon notice, may take further testimony or hear argument. ~~If,~~

37 (b) *If, based upon the preponderance of the testimony taken,*
38 ~~the board shall be of the opinion~~ *finds* that ~~any~~ *a* person named in
39 the complaint has engaged in or is engaging in any ~~such~~ unfair
40 labor practice, the board shall state its findings of fact and shall

1 issue and cause to be served on ~~such~~ *the* person an order requiring
2 ~~such that~~ person to cease and desist from ~~such the~~ unfair labor
3 practice; and to take affirmative action, including reinstatement
4 of employees with or without backpay, ~~and~~ making employees
5 whole, when the board deems such relief appropriate, for the loss
6 of pay resulting from the employer's refusal to bargain, and ~~to~~
7 ~~provide such~~ *providing any* other relief as ~~will~~ *would* effectuate
8 the policies of this part. Where an order directs reinstatement of
9 an employee, backpay may be required of the employer or labor
10 organization, as the case may be, responsible for the discrimination
11 suffered by ~~him~~ *the employee*. ~~Such~~ *The* order may further require
12 ~~such the~~ person *named in the complaint* to make reports from time
13 to time showing the extent to which ~~it~~ *the employer* has complied
14 with the order. ~~If~~;

15 *(c) If the board finds that an employer has willfully or repeatedly*
16 *committed an unfair labor practice under subdivision (a) or (c) of*
17 *Section 1153 while employees of the employer were seeking*
18 *representation by a labor organization or after a labor*
19 *organization was designated as a representative under Section*
20 *1156, the board may, in addition to any order permitted by this*
21 *section, impose a civil penalty of up to twenty thousand dollars*
22 *(\$20,000) for each violation. The board shall determine the amount*
23 *of any civil penalty imposed based upon the impact of the unfair*
24 *labor practice on the charging party or on other persons seeking*
25 *to exercise rights guaranteed by this part, or on the public interest.*

26 *(d) If, upon the preponderance of the testimony taken, the board*
27 ~~shall be of the opinion~~ *finds that the person named in the complaint*
28 *has not engaged in or is not engaging in any unfair labor practice,*
29 *the board shall state its findings of fact and shall issue an order*
30 *dismissing the complaint. No* *An* order of the board shall *not* require
31 the reinstatement of any individual as an employee who has been
32 suspended or discharged, or the payment to him *or her* of any
33 backpay, if ~~such the~~ individual was suspended or discharged for
34 cause. In case the evidence is presented before a member of the
35 board, or before an administrative law officer thereof, ~~such the~~
36 member; or ~~such~~ administrative law officer, as the case may be,
37 shall issue and cause to be served on the parties to the proceedings
38 a proposed report, together with a recommended order, which shall
39 be filed with the board, and, if no exceptions are filed within 20
40 days after service thereof upon ~~such the~~ parties, or within ~~such a~~

1 further period as the board may authorize, ~~such~~ *the* recommended
2 order shall become the order of the board and become effective as
3 therein prescribed.

4 (e) Until the record in a case ~~shall have~~ *has* been filed in a court,
5 as provided in this chapter, the board may, at any time upon
6 reasonable notice and in such manner as it shall deem proper,
7 modify or set aside, in whole or in part, any finding or order made
8 or issued by it.

9 SEC. 9. Section 1160.6 of the Labor Code is amended to read:

10 1160.6. (a) Whenever it is charged that ~~any~~ *(1) an employer*
11 *has, while the employees of that employer were seeking*
12 *representation by a labor organization or during the period after*
13 *a labor organization was recognized as a representative,*
14 *discharged or otherwise discriminated against an employee in*
15 *violation of subdivision (c) of Section 1153, threatened to discharge*
16 *or to otherwise discriminate against an employee in violation of*
17 *subdivision (a) of Section 1153, or engaged in any other unfair*
18 *labor practice within the meaning of subdivision (a) of Section*
19 *1153 that significantly interfered with, restrained, or coerced*
20 *employees in the exercise of the rights guaranteed in Section 1152,*
21 *or (2) a person has engaged in an unfair labor practice within the*
22 *meaning of paragraph (1), (2), or (3) of subdivision (d), or of*
23 *subdivision (g), of Section 1154, or of Section 1155, the*
24 *preliminary investigation of—*~~such~~ *the charge shall be made*
25 *forthwith and given priority over all other cases except cases of*
26 *like character in the office where it is filed or to which it is referred.*
27 ~~If,~~

28 (b) ~~If,~~ after ~~such~~ *the* investigation, the officer or regional attorney
29 to whom the matter may be referred has reasonable cause to believe
30 ~~such~~ *the* charge is true and that a complaint should issue, he *or she*
31 shall, on behalf of the board, petition the superior court in the
32 county in which the unfair labor practice in question has occurred,
33 is alleged to have occurred, or where the person alleged to have
34 committed the unfair labor practice resides or transacts business,
35 for appropriate injunctive relief pending the final adjudication of
36 the board with respect to the matter. The officer or regional attorney
37 shall make all reasonable efforts to advise the party against whom
38 the restraining order is sought of his *or her* intention to seek ~~such~~
39 *an* order at least 24 hours prior to doing so. In the event the officer
40 or regional attorney has been unable to advise ~~such~~ *a* party of his

1 *or her* intent at least 24 hours in advance, he *or she* shall submit
2 a declaration to the court under penalty of perjury setting forth in
3 detail the efforts he *or she* has made. Upon the filing of ~~any such~~
4 a petition, the superior court shall have jurisdiction to grant such
5 injunctive relief or temporary restraining order as it deems just
6 and proper. Upon the filing of ~~any such~~ a petition, the board shall
7 cause notice thereof to be served upon any person involved in the
8 charge, and ~~such~~ that person, including the charging party, shall
9 be given an opportunity to appear by counsel and present any
10 relevant testimony. For the purposes of this section, the superior
11 court shall be deemed to have jurisdiction of a labor organization
12 either in the county in which ~~such~~ the organization maintains its
13 principal office, or in any county in which its duly authorized
14 officers or agents are engaged in promoting or protecting the
15 interests of employee members. The service of legal process upon
16 ~~such~~ an officer or agent shall constitute service upon the labor
17 organization and make ~~such~~ the organization a party to the suit.
18 In situations where such relief is appropriate, the procedure
19 specified herein shall apply to charges with respect to paragraph
20 (4) of subdivision (d) of Section 1154.

21 SEC. 10. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.